

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 186

HOUSE BILL 2314

AN ACT

AMENDING SECTIONS 13-1604, 44-1642, 44-1644 AND 44-1646, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1647; RELATING TO SCRAP METAL DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1604, Arizona Revised Statutes, is amended to
3 read:

4 13-1604. Aggravated criminal damage; classification

5 A. A person commits aggravated criminal damage by intentionally or
6 recklessly without the express permission of the owner:

7 1. Defacing, damaging or in any way changing the appearance of any
8 building, structure, personal property or place used for worship or any
9 religious purpose.

10 2. Defacing or damaging any building, structure or place used as a
11 school or as an educational facility.

12 3. Defacing, damaging or tampering with any cemetery, mortuary or
13 personal property of the cemetery or mortuary or other facility used for the
14 purpose of burial or memorializing the dead.

15 4. DEFACING, DAMAGING OR TAMPERING WITH ANY UTILITY OR AGRICULTURAL
16 INFRASTRUCTURE OR PROPERTY, CONSTRUCTION SITE OR EXISTING STRUCTURE FOR THE
17 PURPOSE OF OBTAINING NONFERROUS METALS AS DEFINED IN SECTION 44-1641.

18 B. Aggravated criminal damage is punishable as follows:

19 1. ~~Aggravated criminal damage is a class 4 felony~~ If the person
20 intentionally or recklessly does any act described in subsection A OF THIS
21 SECTION which causes damage to the property of another in an amount of ten
22 thousand dollars or more, AGGRAVATED CRIMINAL DAMAGE:

23 (a) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 1, 2
24 OR 3 OF THIS SECTION IS A CLASS 4 FELONY.

25 (b) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 4 OF
26 THIS SECTION IS A CLASS 3 FELONY.

27 2. ~~Aggravated criminal damage is a class 5 felony~~ If the person
28 intentionally or recklessly damages property of another in an amount of one
29 thousand five hundred dollars or more but less than ten thousand dollars,
30 AGGRAVATED CRIMINAL DAMAGE:

31 (a) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 1, 2
32 OR 3 OF THIS SECTION IS A CLASS 5 FELONY.

33 (b) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 4 OF
34 THIS SECTION IS A CLASS 4 FELONY.

35 3. In all other cases aggravated criminal damage is:

36 (a) A class 6 felony IF IT RESULTS FROM ACTIONS DESCRIBED IN
37 SUBSECTION A, PARAGRAPH 1, 2 OR 3 OF THIS SECTION.

38 (b) A CLASS 5 FELONY IF IT RESULTS FROM ACTIONS DESCRIBED IN
39 SUBSECTION A, PARAGRAPH 4 OF THIS SECTION.

40 C. In determining the amount of damage to property, damages include
41 the cost of repair or replacement of the property that was damaged AND THE
42 COST OF THE LOSS OF CROPS AND LIVESTOCK.

1 Sec. 2. Section 44-1642, Arizona Revised Statutes, is amended
2 effective from and after August 31, 2007, to read:

3 44-1642. Records of purchase; transaction limitations; age
4 requirement for scrap metal seller; exception

5 A. Every scrap metal dealer shall keep on the business premises a book
6 or other similar record legibly printed or written in ink, in the English
7 language of each transaction exceeding twenty-five dollars involving the
8 receipt of scrap metal ~~except used beverage containers~~. The record of each
9 receipt of scrap metal shall include the following information:

10 1. The date, time and place of the transaction.

11 2. A PHOTOGRAPH AND an identifying description and weight of the
12 specific scrap metal received.

13 3. The dollar amount ~~paid~~ OF THE TRANSACTION.

14 4. The seller's name, physical description including gender, height,
15 weight, race and eye and hair color, PHYSICAL address, date of birth,
16 signature and A PHOTOCOPY OF A CURRENT driver license number ~~or a photocopy~~
17 ~~of a valid government issued photo identification card~~, NONOPERATING
18 IDENTIFICATION LICENSE ISSUED PURSUANT TO SECTION 28-3165 OR PHOTO
19 IDENTIFICATION CARD ISSUED BY A TRIBAL GOVERNMENT OR THE UNITED STATES
20 MILITARY. THE SCRAP METAL DEALER MUST VALIDATE THE RECORDED INFORMATION BY
21 USING THE SELLER'S CURRENT DRIVER LICENSE, NONOPERATING IDENTIFICATION
22 LICENSE ISSUED PURSUANT TO SECTION 28-3165 OR PHOTO IDENTIFICATION CARD
23 ISSUED BY A TRIBAL GOVERNMENT OR THE UNITED STATES MILITARY.

24 5. The seller's transaction privilege tax number, if applicable.

25 6. The number and state of issuance of the license on the vehicle used
26 to deliver the scrap metal.

27 7. A PHOTOGRAPH, VIDEO RECORD OR DIGITAL RECORD OF THE SELLER INVOLVED
28 IN THE TRANSACTION.

29 8. A RIGHT INDEX FINGERPRINT OF THE SELLER.

30 B. The record and entries shall be retained in a book or similar
31 record at the business premises for one year after making the final entry of
32 any transaction and shall be retained either at the business premises or any
33 other reasonably available location for an additional year. A scrap metal
34 dealer shall not purchase materials for which a record is required to be kept
35 by this section in a series of purchases under twenty-five dollars to avoid
36 the requirements of this section. A scrap metal dealer's business premises,
37 business records relating to scrap metal transactions, including a book or
38 similar record prescribed by this section, and business inventory shall be
39 open during regular business hours for reasonable inspection by a peace
40 officer. Before an inspection shall take place a peace officer shall first
41 identify himself and the purpose for the inspection to the scrap metal
42 dealer, dealer's manager or other responsible person and comply with all
43 reasonable and customary safety requirements of that scrap metal dealer for
44 the business premises inspected. The scrap metal dealer may require the
45 peace officer to sign an inspection log that includes the officer's name and

1 serial or badge number and the time, the date and the purpose for the
2 inspection.

3 C. A SCRAP METAL DEALER SHALL NOT PROVIDE PAYMENT FOR ANY SCRAP METAL
4 ON SITE AT THE TIME OF THE SCRAP METAL TRANSACTION. PAYMENT SHALL BE MADE BY
5 MAILING A CHECK OR MONEY ORDER TO A PHYSICAL ADDRESS PROVIDED BY THE SELLER
6 THROUGH A CURRENT DRIVER LICENSE OR OTHER IDENTIFICATION PRESCRIBED IN
7 SUBSECTION A, PARAGRAPH 4 OF THIS SECTION. THE CHECK OR MONEY ORDER SHALL BE
8 MADE PAYABLE TO THE BUSINESS NAME FOR AN INDUSTRIAL ACCOUNT. THIS
9 SUBSECTION:

10 1. EXCEPT AS PROVIDED IN PARAGRAPHS 2 AND 3 OF THIS SUBSECTION, ONLY
11 APPLIES TO INDUSTRIAL ACCOUNTS, COPPER AND ALUMINUM WIRE WITH A DIAMETER OF
12 AT LEAST THREE-EIGHTHS OF AN INCH.

13 2. EXCEPT AS PROVIDED IN PARAGRAPH 3 OF THIS SUBSECTION, APPLIES TO
14 ALL SCRAP METAL TRANSACTIONS OF THREE HUNDRED DOLLARS OR MORE.

15 3. DOES NOT APPLY TO INDUSTRIAL ACCOUNTS IF THE INDUSTRIAL ACCOUNTS
16 ANNUALLY PREREGISTER EMPLOYEES WHO ARE AUTHORIZED SELLERS ON BEHALF OF THE
17 INDUSTRIAL ACCOUNTS.

18 D. A SCRAP METAL DEALER SHALL PROVIDE A RECEIPT TO THE SELLER ON SITE
19 AT THE TIME OF THE SCRAP METAL TRANSACTION, FOR EVERY TRANSACTION, AND SHALL
20 INCLUDE THE FOLLOWING INFORMATION:

21 1. THE DATE, TIME AND PLACE OF THE TRANSACTION.

22 2. AN IDENTIFYING DESCRIPTION AND WEIGHT OF THE SPECIFIC SCRAP METAL
23 RECEIVED.

24 3. THE DOLLAR AMOUNT OF THE TRANSACTION.

25 E. A SCRAP METAL SELLER MAY NOT CONDUCT A SERIES OF TRANSACTIONS FOR
26 ONE VEHICLE LOAD OF SCRAP METAL TO AVOID THE REQUIREMENTS OF THIS SECTION.

27 F. A SCRAP METAL SELLER SHALL NOT PARTICIPATE IN MORE THAN ONE CASH
28 TRANSACTION PER DAY FOR SCRAP METAL.

29 G. A SCRAP METAL SELLER SHALL BE AT LEAST SIXTEEN YEARS OLD.

30 H. THIS SECTION DOES NOT APPLY TO TRANSACTIONS INVOLVING USED ALUMINUM
31 BEVERAGE CONTAINERS OR MATERIALS CONSISTING OF A METAL PRODUCT IN ITS
32 ORIGINAL MANUFACTURED FORM THAT IS COMPRISED OF NO MORE THAN TWENTY PER CENT
33 BY WEIGHT NONFERROUS METAL.

34 Sec. 3. Section 44-1644, Arizona Revised Statutes, is amended
35 effective from and after August 31, 2007, to read:

36 44-1644. Report to the department of public safety; exemption;
37 violation; classification

38 A. Within twenty-four hours of receipt of scrap metals, except from an
39 industrial account or a scrap metal dealer, for which a record is required to
40 be kept by section 44-1642, a scrap metal dealer shall deliver to the ~~local~~
41 ~~law enforcement agency~~ DEPARTMENT OF PUBLIC SAFETY a record of the receipt of
42 the scrap metals. The record shall include the following information:

1 1. The date, time and place of the receipt of the scrap metal.

2 2. An identifying description of the specific scrap metal received
3 including the weight and amount paid OF THE TRANSACTION or other
4 consideration given.

5 3. A description of the person delivering the metal to the scrap metal
6 dealer including the person's gender, height, weight, race and hair and eye
7 color, address, AND date of birth and A PHOTOCOPY OF A CURRENT driver
8 license, ~~number or a photocopy of a valid government issued photo~~
9 ~~NONOPERATING identification card~~ LICENSE ISSUED PURSUANT TO SECTION 28-3165
10 OR PHOTO IDENTIFICATION CARD ISSUED BY A TRIBAL GOVERNMENT OR THE UNITED
11 STATES MILITARY.

12 4. The number and state of issuance of the license on the vehicle used
13 to deliver the scrap metal.

14 B. FOR COPPER, ALUMINUM WIRE WITH A DIAMETER OF AT LEAST THREE-EIGHTHS
15 OF AN INCH AND TRANSACTIONS WITH A VALUE OVER ONE HUNDRED DOLLARS, a scrap
16 metal dealer shall hold in its custody in the same size, shape and condition
17 in which the ~~nonferrous~~ scrap metal was received on its business premises any
18 ~~nonferrous~~ scrap metal received in a reportable transaction for seven days
19 after filing the report prescribed by subsection A of this section.

20 C. Subsection B of this section does not apply to transactions with
21 industrial accounts, other scrap metal dealers or purchases by scrap metal
22 dealers of used ALUMINUM beverage containers or ferrous scrap metals and of
23 scrap metal authorized for release by a peace officer of that jurisdiction.

24 D. A person who fails to file a report prescribed by this section is
25 guilty of a class 1 misdemeanor.

26 Sec. 4. Section 44-1646, Arizona Revised Statutes, is amended
27 effective from and after August 31, 2007, to read:

28 44-1646. Burned metallic wire; aluminum wire; copper wire;
29 transaction restrictions; applicability

30 A. A scrap metal dealer shall not purchase or otherwise receive
31 metallic wire that was burned in whole or in part to remove insulation unless
32 the scrap metal dealer receives from the scrap metal seller written evidence
33 identifying the person who delivers the wire to the scrap metal dealer that
34 includes evidence that the wire was lawfully burned. ~~This section does not~~
35 ~~apply to transactions with industrial accounts located outside of the state~~
36 ~~of Arizona or scrap metal dealers located outside the state of Arizona.~~

37 B. A SCRAP METAL DEALER SHALL NOT ACCEPT ALUMINUM WIRE WITH A DIAMETER
38 OF AT LEAST THREE-EIGHTHS OF AN INCH OR ANY COPPER WIRE THAT HAS HAD THE
39 INSULATION REMOVED AND SHALL NOT REMOVE THE INSULATION FROM THE WIRE UNTIL
40 AFTER THE SEVEN DAY PERIOD PRESCRIBED BY SECTION 44-1644, SUBSECTION B.

41 C. THIS SECTION DOES NOT APPLY TO TRANSACTIONS WITH ALL INDUSTRIAL
42 ACCOUNTS OR TO TRANSACTIONS BETWEEN SCRAP METAL DEALERS.

1 Sec. 5. Title 44, chapter 11, article 3.1, Arizona Revised Statutes,
2 is amended effective from and after August 31, 2007, by adding section
3 44-1647, to read:

4 44-1647. Department of public safety; transaction form

5 THE DEPARTMENT OF PUBLIC SAFETY SHALL DESIGN AND MAKE AVAILABLE A
6 SELLER AND TRANSACTION FORM THAT MAY BE USED BY A SCRAP METAL DEALER WHO MUST
7 REPORT PURSUANT TO SECTION 44-1644.

8 Sec. 6. Emergency

9 This act is an emergency measure that is necessary to preserve the
10 public peace, health or safety and is operative immediately as provided by
11 law.

APPROVED BY THE GOVERNOR MAY 8, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2007.